

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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INTERNATIONAL CODE COUNCIL, INC., :
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 :
 : Plaintiff, : 17 Civ. 6261 (VM)
 : 20 Civ. 4316 (VM)
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 : - against - :
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 : UPCODES, INC., et al., :
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 : Defendants. :
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ORDER

VICTOR MARRERO, United States District Judge.

On August 17, 2017, Plaintiff International Code Council, Inc. ("ICC") commenced this action alleging one count of copyright infringement by defendants UpCodes, Inc. ("UpCodes"), Garrett Reynolds, and Scott Reynolds (collectively, "Defendants"). (See ICC v. UpCodes, et al., No. 17 Civ. 6261 (the "Copyright Action"), Dkt. No. 1.)

After discovery in that case, the Court denied cross motions for summary judgment on May 27, 2020. See Int'l Code Council, Inc. v. UpCodes, Inc., No. 17 Civ. 6261, 2020 WL 2750636 (S.D.N.Y. May 27, 2020). Having denied both motions, the Court directed the parties to submit a proposed timeline for trial within twenty days of the date of that order. Id. at *31.

Before the twenty days had elapsed, on June 5, 2020, ICC initiated a separate action alleging false advertising and unfair competition by Defendants. (See ICC v. UpCodes, et

al., No. 20 Civ. 4316 (the "False Advertising Action"), Dkt. No. 1.) On June 15, 2020, the Court consolidated the cases for pretrial purposes. (See Copyright Action, Dkt. No. 106.)

On August 21, 2020, consistent with the Court's Individual Practices, the parties completed an exchange of letters regarding Defendants' proposed motion to dismiss. (Copyright Action, Dkt. No. 111.) The Court construed the letter exchange as a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), which the Court granted in its entirety. (See "Dismissal Order," Copyright Action, Dkt. No. 113.) In the Dismissal Order, the Court again directed the parties to submit an updated timeline for trial, which they did on March 29, 2021. (See Copyright Action, Dkt. No. 117.) An appeal of the Dismissal Order was noticed in the docket the following day. (Copyright Action, Dkt. No. 118.)

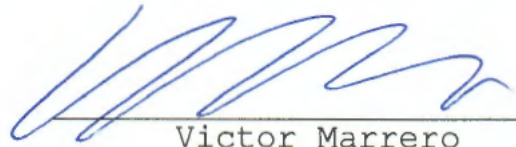
Having reviewed the parties' arguments regarding a proposed trial timeline, the Court is persuaded that, in the interest of judicial economy, trial in the Copyright Action should not be scheduled until after resolution of Plaintiff's pending appeal in the False Advertising Action.

Accordingly, it is hereby **ORDERED** that within ten days of the Second Circuit's ruling on Plaintiff's pending appeal of the Dismissal Order, the parties shall inform the Court

that the appeal has been resolved and submit an updated timeline for trial in the Copyright Action.

SO ORDERED.

Dated: New York, New York
8 April 2021



Victor Marrero
U.S.D.J.